

ALLIED RECLAIMING SERVICES,)	AGBCA Nos. 99-140-1
)	99-153-1
Appellant)	2000-129-1
)	
Representing the Appellant:)	
)	
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DECISION OF THE BOARD OF CONTRACT APPEALS

December 20, 2001

Before POLLACK, VERGILIO, and WESTBROOK, Administrative Judges.

Opinion for the Board by Administrative Judge WESTBROOK.

These appeals arise out of Contract No. 50-6424-8-009, construction of five earthfill floodwater retarding dams in Troublesome Creek Watershed, Lewis County, Missouri, between Allied Reclaiming Services of Richfield Springs, New York (Appellant), and the U. S. Department of Agriculture, Natural Resources Conservation Service, Champaign, Illinois (NRCS or the Government). All appeals were timely filed. AGBCA No. 99-140-1 is the appeal of the Contracting Officer's decision terminating the contract for default. AGBCA No. 99-153-1 is the appeal of the denial of Appellant's claims 1-6. These claims are for various alleged constructive changes mostly related to equipment usage and alleged differing site conditions. AGBCA No. 2000-129-1 is the appeal of the denial of Appellant's claims 7 (costs of installing protective dikes) and 8 (demobilization costs).

The Board has jurisdiction in these appeals under the Contract Disputes Act of 1978 (CDA), 41

U.S.C. §§ 601-613, as amended.

After docketing and the filing of pleadings, the Board engaged in a number of conferences with the parties in an attempt to clarify the issues. In November 1999, the Board participated with the parties in a 2-day mediation which was ultimately unsuccessful. The presiding judge then recused himself and the appeals were reassigned to the current presiding judge. The Government and Appellant, which was then without counsel, undertook discovery and several discovery disputes arose requiring Board ruling. The appeals were set for hearing three times and twice continued at the request of the parties. After the second continuation, Appellant obtained counsel. Finally, the appeals were set for hearing November 6-8, 2001, and the Board issued a pre-trial order, including an order on proof of costs. Prior to the date set for the hearing to commence, the parties informed the Board that the appeals had been settled. The Board has now received a joint stipulation for dismissal with prejudice, subject to reinstatement only upon the failure of either party to perform the terms of the settlement agreement.

DECISION

Pursuant to the parties' joint stipulation, dated December 6, 2001, the appeals are hereby dismissed.

ANNE W. WESTBROOK
Administrative Judge

Concurring:

HOWARD A. POLLACK
Administrative Judge

JOSEPH A. VERGILIO
Administrative Judge

Issued at Washington, D.C.
December 20, 2001